

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JUDGE DAVID M. GLOVER

DIVISION I

CACR06-632

December 20, 2006

JAYSON CARROLL

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

APPEAL FROM THE COLUMBIA
COUNTY CIRCUIT COURT
[CR-04-88A, CR-05-42A]]

HONORABLE LARRY CHANDLER,
JUDGE

AFFIRMED

On August 4, 2005, appellant, Jayson Carroll, pleaded guilty to the offenses of false imprisonment and possession of a controlled substance (methamphetamine), and he was sentenced to five years' probation. On September 29, 2005, the State filed a petition to revoke Carroll's probation, alleging that he had admitted that he had possessed and used controlled substances; that he had associated with a convicted felon; that he had possessed a firearm; and that he had failed to report to his probation officer. After a hearing, the trial judge revoked Carroll's probation and sentenced him to eight years in the Arkansas Department of Correction. Carroll now appeals, arguing that the trial court erred in revoking his probation. We affirm.

At the revocation hearing, Diane Ferguson, Carroll's probation officer, was the State's only witness. Ferguson testified that Carroll came in for the intake process on August 10, 2005; that he was scheduled to return for his first appointment with her on September 6 but failed to appear; that he was arrested on new charges on September 8; that she saw him in the detention center after his arrest; that he told her that he had used Xanax, marijuana, and methamphetamine; that he was unable to produce a urine sample, but he wrote out a statement admitting that he had used marijuana, methamphetamine, and Xanax and stated that he did not have a prescription for the Xanax; and that he had obtained the drugs from two people, one of them being Rowland Jamerson, a person he knew to be a convicted felon currently on parole. Ferguson further testified that one of the conditions of Carroll's probation was that he could not use, sell, distribute or possess any controlled substance, with the exception of prescription substances for which he could present proof of the prescription and provide the physician's name who prescribed the medication. Ferguson also said that another condition of Carroll's probation was that he could not associate with convicted felons.

Ferguson also stated that Carroll told her that he was at his brother's house; that his brother had a gun in the house; and that he (appellant) had loaded the gun and put it on the bed within reach because the house was located in a bad neighborhood. Ferguson then testified that another term of appellant's probation was that he could not purchase, own, control, or possess any firearm.

After the State rested, Carroll moved for a directed verdict, arguing that it was not a violation of his probation to admit to the use of drugs; that the State had failed to present any evidence of association with Jamerson other than his statement to Ferguson; that Ferguson had no first-hand knowledge of the existence of any firearm; and that one failure to report was insufficient to revoke his probation. The trial court denied these motions.

Carroll testified in his own defense, and he admitted that he had told Ferguson at the jail on September 9 that he had used Xanax, methamphetamine, and marijuana. He denied ever being around Jamerson voluntarily; he said that Jamerson came to the door and was told to leave. Carroll also denied having control over the firearm that was in his brother's house, although he admitted that he did have access to it. However, on cross-examination, he admitted that he told an officer that he had loaded the gun after he had denied it several times because the officer "kept on" and he just "told him what he wanted to hear." With respect to the failure to report, Carroll testified that it was his understanding that he was to report on the tenth of the month, and that he had intended to report but had been arrested on a failure-to-appear charge before he could do so.

Carroll's counsel renewed the motion for directed verdict after appellant's testimony, and the motion was again denied. The trial court stated that it had no difficulty in finding that Carroll had violated his probation with respect to all of the allegations made by the State in the revocation petition, and he then revoked Carroll's probation and sentenced Carroll to eight years in prison.

A trial court may revoke a defendant's probation at any time prior to the expiration of the period of probation if it finds by a preponderance of the evidence that the defendant has inexcusably failed to comply with a condition of his probation. Ark. Code Ann. § 5-4-309(d) (Supp. 2005). In probation-revocation proceedings, the State has the burden of proving that the appellant violated the terms of his probation, as alleged in the revocation petition, by a preponderance of the evidence, and this court will not reverse the trial court's decision to revoke probation unless it is clearly against the preponderance of the evidence. *Stinnett v. State*, 63 Ark. App. 72, 973 S.W.2d 826 (1998). The State need only show that the appellant committed one violation in order to sustain a revocation. *See Brock v. State*, 70 Ark. App. 107, 14 S.W.3d 908 (2000). In testing the sufficiency of the evidence, we view the evidence in the light most favorable to the State. *Reese v. State*, 26 Ark. App. 42, 759 S.W.2d 576 (1988).

Here, Carroll admitted that he had used methamphetamine, marijuana, and Xanax, in violation of the conditions of his probation. Because the State need only prove one violation of a defendant's probation to support a revocation of the probation, this alone is sufficient to support the trial court's revocation. Furthermore, the testimony of Diane Ferguson with regard to Carroll's association with a convicted felon, possession of a firearm, and the failure to report for his probation meeting also would support the trial court's decision to revoke probation, as the trial court was not obligated to believe Carroll's version of those events.

Affirmed.

VAUGHT and CRABTREE, JJ., agree.